

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-464-W/S – ORDER NO. 98-384
MAY 27, 1998

IN RE: Mark W. Erwin, Riverhills & Other)	
Lake Wylie Consumers,)	
)	
Complainants,)	
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vs.)	
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Carolina Water Service, Inc.,)	
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Respondent.)	
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ORDER

This matter comes before the Public Service Commission of South Carolina (“the Commission”) by way of a complaint filed by Mark Erwin and various other consumers in the Lake Wylie area (collectively referred to as “the Complainants”) served by Carolina Water Service, Inc. (“CWS” or “the Respondent”). The instant Docket was instituted by the filing of a complaint by Mark Erwin, regarding the application of impact fees by the Respondent. Thereafter, the Commission combined Mr. Erwin’s complaint with the joint complaint of seven organizations. This joint complaint challenged the quality of water and rates charged to those organizations by CWS under the bulk water agreement with York County.

On February 16, 1998, the Commission convened a night hearing in the Lake Wylie community. At the night hearing, sixteen people testified before the Commission.

At the conclusion of the night hearing, the Commission adjourned the hearing to reconvene on April 2, 1998, at the Commission's Hearing Room.

On April 2, 1998, the Commission reconvened the hearing in the Commission's Hearing Room at 111 Doctor's Circle, Columbia, South Carolina. Complainant Mark Erwin appeared pro se. Complainant Riverhills Community Association was represented by Russell B. Shetterly, Esquire. The Respondent CWS was represented by John M.S. Hoefer, Esquire. The Commission Staff was represented by Florence P. Belser, Staff Counsel. Testifying at the hearing were Mark Erwin; William R. Harrington on behalf of the Riverhills Community Association; Carl Wenz and Bruce T. Haas on behalf of CWS; and Gary E. Walsh on behalf of the Commission Staff.

EVIDENCE OF RECORD

At the night hearing on February 16, 1998, sixteen people testified before the Commission. Testimony from the consumers revealed that the consumers have complaints concerning the quality of the water, including taste, color, sediment in the water, and odor. Concerns about low water pressure were raised, and several customers voiced complaints about the high water bills. With regard to the high water bills, several consumers particularly complained about the high bills associated with the summer months when they are irrigating their lawns and gardens. The consumer witnesses also expressed concerns over the amount of tap fees and impact fees. Witnesses also questioned the expenses of maintaining the sewer treatment plant and wells for water since CWS is now receiving bulk sewer treatment and bulk water from York County.

At the portion of the hearing held on April 2, 1998, Mark Erwin testified. With regard to the impact fees, Mr. Erwin stated that historically the water and sewer plants

were paid for by the developers and then donated to CWS. Mr. Erwin also stated that as expansion of the systems occurred, that the developers also paid for the expansion and then donated the expansions to CWS. Mr. Erwin questioned the need for and the amount of the impact fee when CWS is utilizing bulk services from York County and no longer has the need for a sewer treatment plant or the well system.

William R. Harrington, a member of the Board of Directors of the River Hills Community Association, Inc., testified. Mr. Harrington alleged that CWS is adding an adjustment to the contract price of the water to collect for non-account water. With regard to sewer rates, Mr. Harrington suggested that a cap of 6100 gallons per month be placed on sewer rates. Mr. Harrington also opined that the CWS sewer treatment plant and the water well system are no longer productive assets which should be removed from rate base.

Carl J. Wenz, Vice President of Regulatory Matters for Utilities, Inc. and all of its subsidiaries, including CWS, and Bruce T. Haas, Regional Manager of Operations for CWS, testified on behalf of CWS. In responding to concerns raised by Mr. Harrington and others, Mr. Wenz stated that CWS is charged \$3.11 per 1,000 gallons of water York County and that CWS "passes through" this charge to the customer without mark-up. However, on cross-examination, Mr. Wenz admitted that York County had increased the price of water earlier than the contract allowed which resulted in an overcharge to CWS and the customers. Mr. Wenz also stated that CWS would refund the overcharge to the customers for that period of April 1997 to December 1997 plus interest at 8.75 per cent, which is the legal rate of interest.

In responding to an allegation that CWS underpaid York County and overcharged the customers for sewer service, Mr. Wenz explained that due to a billing error York County had undercharged CWS for bulk sewer for a nine month period. Mr. Wenz also explained that CWS had charged the customers the correct rate for sewer service and had recently paid the undercharge to York County. In response to concerns regarding the bulk sewer “pass-through” arrangement, Mr. Wenz offered as possible solutions either a “true-up” requirement or the purchase of an irrigation meter by the customers.

As for the issue of the impact fees, Mr. Wenz stated that there was no basis for a reduction of the impact fees. Mr. Wenz offered that the imposition of impact fees has the effect of reducing the burden on customers to fund capital improvements by way of service fees by spreading the cost of operation outside the existing customer base.

Mr. Haas stated that CWS began receiving bulk water from York County on December 10, 1996. Mr. Haas stated that the most recent Department of Health and Environmental Control (“DHEC”) analysis satisfied all DHEC bacteriological standards. Mr. Haas also stated that CWS is in compliance with DHEC and has collected all required water samples. Mr. Haas acknowledged that CWS experienced an increase in complaints from customers concerning taste, odor and appearance of the water shortly after commencing the purchase of bulk water from York County. Mr. Haas explained that these complaints were attributed to the change in water source and then during the summer of 1997 to the warm summer weather which depleted the surface water reservoir. Mr. Haas also described steps taken by CWS to improve the water quality including system-wide flushing, additional water quality testing, and the installation of “blow-offs.”

Gary E. Walsh, Deputy Executive Director of the Commission, testified for the Staff. Mr. Walsh stated that Staff investigated various issues raised by the customers in the Lake Wylie area. Mr. Walsh reported that Staff investigated the impact fee being charged by CWS and also reviewed the rates charged for water and sewer service by CWS in York County. With regard to the impact fee, Mr. Walsh stated that the Commission approved minimum impact fee charges for customers in York County are \$400 for water and \$400 for sewer. If the equivalence rating of a non-residential customer is greater than one, then the approved minimum charge is determined by multiplying the equivalence rating by the approved minimum charge. Mr. Walsh further offered that in his opinion the impact fees currently being charged are appropriate.

Mr. Walsh also testified that the impact fee being collected by CWS is intended to offset future capital costs associated with the expansion of the water and sewer plant. Upon questioning, Mr. Walsh stated that the impact fee is not based system by system but is based on the statewide operations of CWS. In other words, the impact fee is not specific to the Riverhills subdivision, for instance, but is based on the total operations of CWS in South Carolina. Mr. Walsh also acknowledged that the logic of the impact fee being established on a statewide basis was that each system would have plant which contributed to the total costs of the statewide system. However, Mr. Walsh also acknowledged that should the plant of a system be removed from the equation, then the logic of the statewide basis for the impact fee seems to fail.

Mr. Walsh also addressed Staff's investigation of the rates charged to CWS customers in York County. Mr. Walsh stated that the customers in the Riverhills Subdivision of York County are charged lower base facilities charges, water distribution

charges, and sewer collection charges than CWS customers in other parts of the state. The reason for these lower charges is that the Riverhills Subdivision was excluded from consideration in CWS' most recent general rate case. Mr. Walsh also stated that some of the complaints regarding the higher costs can be attributed to the fact that York County increased the cost of wholesale water from \$2.82 per 1,000 at the time the bulk agreement between CWS and York County was noticed to the public to the current rate of \$3.11 per 1,000 gallons.

CONCLUSIONS

Based on the evidence before it, the Commission makes the following determinations:

1. With regard to the issues and concerns raised over the appropriate amount of impact fees, the Commission instructs Staff to file with the Commission within sixty (60) days, a report which separates the net plant investment of CWS into individual serving areas. A decision relating to the level of impact fees will be held in abeyance until such time as the Commission is provided with this information.
2. With regard to the calculation of sewer bills, which are based on the amount of water consumed, the Commission finds and concludes that sewer bills should be capped at 10,500 gallons usage per month for the months of May through September. This cap is to apply only to residential customers within the Riverhills Subdivision. The Commission finds that a cap on sewer bills is reasonable in light of the fact that the sewer bills are based on water usage and the testimony from the consumers indicates that irrigation has substantially increased their bills. The Commission is aware, and takes judicial notice of the fact, that water used for irrigation is not released into the system and

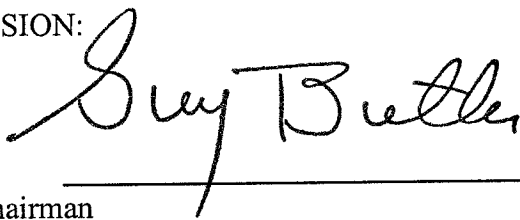
does not receive treatment at the sewer treatment plant. Therefore, the Commission finds that a cap of 10,500 gallons for residential customers for the months of May through September is reasonable and justified.

3. With regard to the overcharge of water rates where York County overcharged CWS and which in turn was “passed through” to the customers, the Commission orders CWS to refund the overcharge, plus interest at the legal rate of interest of 8.75%, to all affected customers. CWS may make the refund by a credit on the customer’s bill. After the refund is made, CWS shall provide evidence to the Commission that the refund was made and shall include the method of calculation of the refund and the total amount of the refund.


4. This Order shall remain in full force and effect until further Order of the Commission.

IT IS THEREFORE ORDERED.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)